

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6704

BILL NUMBER: HB 1238

NOTE PREPARED: Jan 30, 2012

BILL AMENDED: Jan 27, 2012

SUBJECT: Finding of Abandonment for Residential Property.

FIRST AUTHOR: Rep. Burton

FIRST SPONSOR: Sen. Holdman

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Procedure to Petition Court-* The bill provides a procedure that allows: (1) a creditor in a mortgage; or (2) an enforcement authority with jurisdiction in the location of the mortgaged property; to petition the court having jurisdiction over an existing mortgage foreclosure action to find that the mortgaged property is abandoned. The bill provides that upon receiving a petition for a determination of abandonment, the court shall issue an order to show cause as to why the property should not be found to be abandoned and to direct the appropriate parties to appear before the court on a date and time specified in the order. It provides that a party subject to the order has the right to: (1) present oral or written evidence or objections on the issue of abandonment to the court; and (2) be represented by an attorney when appearing before the court. The bill provides that if one or more specified conditions exist with respect to the mortgaged property, the property shall be considered abandoned. It also provides that the debtor's failure to either: (1) present written evidence or objections on the issue of abandonment before the appearance date; or (2) appear before the court on the appearance date; constitutes conclusive evidence that the property is abandoned.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues: *Procedure to Petition Court- Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense

administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Procedure to Petition Court-* Additionally, county or municipal enforcement authorities could require additional expenditure to gather proper evidence and use of staff to present the county or municipality's position in a trial court. Any additional expenditures incurred by this provision would depend on local action.

Explanation of Local Revenues: *Procedure to Petition Court- Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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